

THE LAW OFFICE OF CATHERINE PARK

2300 M STREET, NW
SUITE 800
WASHINGTON, D.C. 20037

PHONE: (202) 973-6479
FAX: (866) 747-7566

E-MAIL: CATHERINE.PARK@CPARKLAW.COM
WEBSITE: WWW.CPARKLAW.COM

November 14, 2007

Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, NE
Suite 110
Washington, D.C. 20002

FILED/ACCEPTED

NOV 14 2007

Federal Communications Commission
Office of the Secretary

RE: Answers to Request for Admissions, Avatar Enterprises, Inc.; EB Docket No. 07-197

Dear Madame Secretary:

Enclosed for filing on behalf of parties Kurtis J. Kintzel, Keanan Kintzel, and all other Entities by which they do business before the Federal Communications Commission, is the original and 6 copies of the Answers to the Enforcement Bureau's Request for Admission of Facts and Genuineness of Documents to Avatar Enterprises, Inc., in the above-referenced matter.

Sincerely,

Catherine Park, Esq.

Catherine Park, Esq.

Enclosures: Original + 6 Copies

No. of Copies 046
11/14/07

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Kurtis J. Kintzel, Keanan Kintzel, and all) EB Docket No. 07-197
Entities by which they do business before the)
Federal Communications Commission)
)
Resellers of Telecommunications Services)
)
To: Presiding Officer, Richard L. Sippel)
(Chief ALJ))

FILED/ACCEPTED
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Federal Communications Commission
Office of the Secretary

**ANSWERS TO ENFORCEMENT BUREAU'S REQUEST FOR ADMISSION OF FACTS
AND GENUINENESS OF DOCUMENTS TO AVATAR ENTERPRISES, INC.**

The party, by his undersigned counsel, hereby answers the Request for Admissions and Genuineness of Documents propounded by the Enforcement Bureau as follows:

- a. The information supplied in these Answers is true to the best of the party's knowledge, information, and belief;
- b. The word usage and sentence structure may be those of the attorney who in fact prepared these Answers and does not purport to be that of the executing party; and
- c. Discovery is not complete; the party reserves the right to supplement its Answers if additional information comes to its attention.

Answers

1. "Avatar is bound by a consent decree between the Commission and BOI dated on

or about February 13, 2004 (the “Consent Decree”) in connection with a proceeding under EB Docket No. 03-85.”

Answer: Denied, with respect to Avatar Enterprises, Inc., which cannot be bound by the Consent Decree because **Avatar Enterprises, Inc., never sold telecommunications services or telephone service, and should never have been subject to FCC oversight.** To the extent that the Consent Decree suggests that Avatar Enterprises, Inc., ever acted as a carrier or telecommunications provider or reseller, the Consent Decree contains incorrect information. Avatar Enterprises, Inc., cannot be bound by the Consent Decree, because that would permit the FCC to exceed its subject matter jurisdiction, in derogation of the Communications Act of 1934. (Subject matter jurisdiction, unlike personal jurisdiction, can be raised at any time, even for the first time on appeal.)

The party also objects to the question because it is purportedly directed to “Avatar,” but the definition of “Avatar” provided by the Enforcement Bureau encompasses companies and entities clearly outside the reasonable range of a question purportedly directed to Avatar Enterprises, Inc. By providing such an unreasonably broad definition of “Avatar,” the Enforcement Bureau seems to assume that it is entitled to pierce the corporate veil without pleading and proving the same. The Enforcement Bureau defines “Avatar” as “Avatar Enterprises, Inc., any affiliate, d/b/a, predecessor-in-interest, parent company, wholly or partially owned subsidiary, successor-in-interest or other affiliated company or business, including but not limited to, BOI, Buzz Telecom and US Bell, and all directors, officers, employees, shareholders or agents, including consultants and any other persons working for or on behalf of any of the foregoing during the period February 11, 2004 through the present, unless otherwise noted.” The Order to Show Cause, FCC 07-165, does not allege specific facts that would justify corporate

veil-piercing under existing law, and does not even allege that it is seeking to establish that Avatar Enterprises, Inc., is a sham corporate entity. Thus the inclusion of Avatar Enterprises, Inc.'s affiliates, parent companies, subsidiaries, etc., in the definition of "Avatar" is improper.

2. "Kurtis J. Kintzel is a director of Avatar."

Answer: Admitted, with respect to Avatar Enterprises, Inc. The party objects to the definition of "Avatar" provided by the Enforcement Bureau, as stated in the Answer to question 1.

3. "Kurtis J. Kintzel has been a director of Avatar during the period February 11, 2004 through the present."

Answer: Admitted, with respect to Avatar Enterprises, Inc. The party objects to the definition of "Avatar" provided by the Enforcement Bureau, as stated in the Answer to question 1.

4. Kurtis J. Kintzel holds a 72 percent equity interest in Buzz.

Answer: Admitted, with respect to Avatar Enterprises, Inc. The party objects to the definition of "Avatar" provided by the Enforcement Bureau, as stated in the Answer to question 1.

5. "Kurtis J. Kintzel has held a majority equity interest in BOI from February 11, 2004 through the present."

Answer: Admitted, with respect to Avatar Enterprises, Inc. The party objects to the definition of "Avatar" provided by the Enforcement Bureau, as stated in the Answer to question 1.

6. "Keanan Kintzel is a director of Avatar."

Answer: Admitted, with respect to Avatar Enterprises, Inc. The party objects to the

definition of "Avatar" provided by the Enforcement Bureau, as stated in the Answer to question 1.

7. "Keanan Kintzel has been a director of Avatar during the period February 11, 2004 through the present."

Answer: Admitted, with respect to Avatar Enterprises, Inc. The party objects to the definition of "Avatar" provided by the Enforcement Bureau, as stated in the Answer to question 1.

8. "Keanan Kintzel holds a 26 percent equity interest in Avatar."

Answer: Admitted, with respect to Avatar Enterprises, Inc. The party objects to the definition of "Avatar" provided by the Enforcement Bureau, as stated in the Answer to question 1.

9. "Keanan Kintzel has held a minority equity interest in Avatar from February 11, 2004 through the present."

Answer: Admitted, with respect to Avatar Enterprises, Inc. The party objects to the definition of "Avatar" provided by the Enforcement Bureau, as stated in the Answer to question 1.

10. "Avatar was an affiliate of Buzz during the period February 11, 2004 through the present."

Answer: Denied, with respect to Avatar Enterprises, Inc. The party objects to the definition of "Avatar" provided by the Enforcement Bureau, as stated in the Answer to question 1.

11. "Avatar was an affiliate of Buzz during the period February 11, 2004 through the present."

Answer: Denied, with respect to Avatar Enterprises, Inc. The party objects to the definition of “Avatar” provided by the Enforcement Bureau, as stated in the Answer to question 1.

12. “Avatar was an affiliate of US Bell during the period February 11, 2004 through the present.”

Answer: Denied, with respect to Avatar Enterprises, Inc. The party objects to the definition of “Avatar” provided by the Enforcement Bureau, as stated in the Answer to question 1.

13. “Avatar, BOI, Buzz, US Bell and Link Technologies have been affiliates during the period February 11, 2004 through the present.”

Answer: Denied, with respect to Avatar Enterprises, Inc. The party objects to the definition of “Avatar” provided by the Enforcement Bureau, as stated in the Answer to question 1.

14. “Avatar has not made all monthly payments toward the voluntary contribution due under the terms of the Consent Decree.”

Answer: Objection; the question is improper because Avatar Enterprises, Inc., is not bound by the Consent Decree. The company is not subject to FCC oversight, thus the FCC exceeded its subject matter jurisdiction by attempting to bind Avatar Enterprises, Inc., to the Consent Decree. The party objects to the definition of “Avatar” provided by the Enforcement Bureau, as stated in the Answer to question 1.

15. “The Companies have not made all monthly payments toward the voluntary contribution due under the terms of the Consent Decree.”

Answer: Objection; the question is improper because Avatar Enterprises, Inc., is not

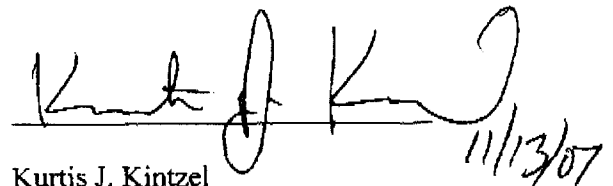
bound by the Consent Decree. The company is not subject to FCC oversight, thus the FCC exceeded its subject matter jurisdiction by attempting to bind Avatar Enterprises, Inc., to the Consent Decree. Avatar Enterprises, Inc., takes no further position on any matters affecting the Consent Decree. The party objects to the definition of “Avatar” provided by the Enforcement Bureau, as stated in the Answer to question 1.

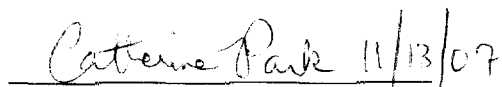
16-21. “[Avatar or The Companies] failed to make the payments toward the \$510,000 voluntary contribution”

Answer: Objection; the question is improper because Avatar Enterprises, Inc., is not bound by the Consent Decree. The company is not subject to FCC oversight, thus the FCC exceeded its subject matter jurisdiction by attempting to bind Avatar Enterprises, Inc., to the Consent Decree. Avatar Enterprises, Inc., takes no further position on any matters affecting the Consent Decree. The party objects to the definition of “Avatar” provided by the Enforcement Bureau, as stated in the Answer to question 1.

SWORN STATEMENT

I hereby declare under penalty of perjury that the information supplied in the foregoing Answers is true to the best of my knowledge, information, and belief. The word choice and sentence structure may be those of the attorney and does not purport to be that of the executing parties. Discovery is not complete; the parties reserve the right to supplement their Answers if additional information comes to their attention.


Kurtis J. Kintzel
Director, Avatar Enterprises, Inc. 11/13/07


Catherine Park, Esq. (DC Bar # 492812)
The Law Office of Catherine Park
2300 M Street, NW, Suite 800
Washington, D.C. 20037
Phone: (202) 973-6479

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent for filing on this 14th day of November 2007, by hand delivery, to the following:

Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, NE
Suite 110
Washington, D.C. 20002

And served by U.S. Mail, First Class, on the following:

Richard L. Sippel, Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, SW, Room 1-C861
Washington, D.C. 20554

Hillary DeNigro, Chief
Michele Levy Berlove, Attorney
Investigations & Hearings Division, Enforcement Bureau
Federal Communications Commission
445 12th Street, SW, Room 4-C330
Washington, D.C. 20554



Catherine Park